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September 29, 2017

British Columbia Public Interest Advocacy Centre
Suite 208 – 1090 West Pender Street
Vancouver, B.C.
V6E 2N7

Attention: Ms. Leigha Worth, Executive Director

Dear Ms. Worth:

Re: FortisBC Energy Inc. (FEI)

Project No. 1598915

**Application for Approval of Operating Terms between the City of Surrey and FEI
(the Application)**

**Response to the British Columbia Public Interest Advocacy Centre
representing the British Columbia Old Age Pensioners' Organization, Active
Support Against Poverty, Disability Alliance BC, Council of Senior Citizens'
Organizations of BC, and the Tenant Resource and Advisory Centre *et al.*
(BCOAPO) Information Request (IR) No. 1**

On May 18, 2017, FEI filed the Application referenced above. In accordance with the British Columbia Utilities Commission Order G-98-17 setting out the Regulatory Timetable for the review of the Application, FEI respectfully submits the attached response to BCOAPO IR No. 1.

If further information is required, please contact Ilva Bevacqua at 604-592-7664.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Diane Roy

Attachments

cc (email only): Commission Secretary
Registered Parties



FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
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1 **Response:**

2 FEI believes that the Commission should consider the impact of all of the approved terms
3 together so as to ensure that the overall result is fair to FEI and its customers as well as Surrey.
4 As such, it may, depending on the nature of the change to the relocation cost allocation, be
5 appropriate to consider whether the amount of the Operating Fee (the percentage of Delivery
6 Margin) still achieves the appropriate overall balance. FEI believes the Operating Fee should
7 be based on a percentage of Delivery Margin regardless, for the reasons described in the
8 Application and other IR responses (refer for instance to the response to BCOAPO IR 1.3.11).

9 The costs that FEI would incur as a result of municipally-requested relocations are potentially
10 very significant in a rapidly developing municipality like Surrey. FEI believes that allocating a
11 greater portion of the costs of relocation to FEI than what has been proposed would materially
12 erode benefits to FEI under the Proposed Operating Agreement. Any material change like this
13 should be factored into FEI's proposal, directionally reducing the Operating Fee from what FEI
14 has proposed or what the Commission would otherwise approve.

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18 3.4 In the event that in the future, Surrey's Permit and Cut Fees were increased
19 materially, would this possibly require or trigger a revisitation of FEI's proposal of
20 0.7% of Delivery Margin? Please explain.

21

22 **Response:**

23 No, that is not FEI's intent. While the Permits and Cut Fees are a component of the Operating
24 Fee formula FEI has proposed, it was intended to establish a reasonable Operating Fee which
25 is fair to both parties, and calculated on a principled basis derived from information specific to
26 Surrey. FEI's proposal is that the percentage of the Operating Fee would be consistent for the
27 life of the operating agreement. Even though the Company's position is that we are not required
28 to pay Permit Fees, their inclusion in the calculation was meant to serve as a proxy for the
29 volume of construction activity within the City, as a way to recognize the City's work in
30 managing the relationship with FEI.

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34 3.5 Please provide all the direct costs associated with the Fees and Permits paid to
35 the City of Surrey for each year starting in 2014.

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1

2 **Response:**

3 Please refer to the response to BCUC IR 1.5.5.

4

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6

7 3.6 Please quantify the administrative and legal costs incurred in dealing with the
8 City for each year starting in 2014.

9

10 **Response:**

11 FEI is unable to specifically quantify administrative and legal costs related to dealing with the
12 City on a per annum basis as costs are not captured or broken down in this manner. Various
13 departments, employees, contractors and other representatives of FEI interact with the City on a
14 day-to-day basis with respect to FEI's own work and operations, the works of third parties and
15 the City's work in and around or affecting FEI infrastructure. Disputes arising from that work
16 may be addressed at a staff level, through escalation to senior management, or by internal or
17 external legal counsel. As noted in Section 3.3.3.1 of FEI's Application, FEI has estimated \$100
18 thousand for avoidance of litigation based on the Proposed Operating Agreement, but this does
19 not reflect costs previously incurred.

20

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23 3.7 Please quantify for each of those years (2014 to present) how much of those
24 costs would be exempt under FEI's proposal, and how much would remain
25 payable?

26

27 **Response:**

28 The City bylaw regarding Permit and Cut Fees only came into effect in 2016. In the hypothetical
29 circumstances where the Proposed Operating Agreement applied since 2016, no Permit or Cut
30 fees would have been paid to the City of Surrey (an Operating Fee would have been collected
31 from customers and payable instead). No litigation took place during the 2014-2016 period.

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1
2 3.8 FEI's proposal is based on 2016 estimates. Does FEI have any data which
3 would support the 0.7% proposal as having been appropriate for years prior to
4 2016? If so, please provide.

5
6 **Response:**

7 FEI based its proposal on 2016 estimates because, as noted in Section 2.2 of the Application,
8 City bylaw changes have resulted in increased requests for FEI to apply for permits and pay
9 fees which would not be relevant to prior years. FEI has provided the estimates of the 0.7
10 percent of delivery margin proposal for the prior years in the response to BCUC IR 1.5.3;
11 however, as noted above, the proposal is premised on the change in circumstances which
12 occurred in 2016.

13
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16 3.9 Please explain why FEI believes that the 0.7% proposal will continue to be
17 appropriate for future years as circumstances change.

18
19 **Response:**

20 FEI recognizes that in any year, circumstances will change resulting in year to year variances.
21 However, based on current conditions and future projections, FEI feels the proposed Operating
22 Fee will continue to provide value to customers and taxpayers through stabilization and certainty
23 until expiration of the operating agreement.

24 While changing circumstances take place from year to year in all municipalities, the opportunity
25 to revisit the appropriateness of an Operating Fee amount is at time of renewal of an operating
26 agreement. The Operating Fee based on Delivery Margin proposed by FEI removes the
27 volatility of commodity prices, and as such will be more stable for FEI's customers in the City of
28 Surrey as well as for the City of Surrey itself. Please also refer to the response to BCUC IR
29 1.5.4.

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33 3.10 Did FEI consider any other approaches to calculating an Operating Fee that
34 would reflect actual costs incurred by Surrey? If so, please describe.

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1 **Response:**

2 FEI considered the approach used in Interior and Vancouver Island municipalities (which is akin
3 to the approach advanced by Surrey in this proceeding). FEI determined that the approach
4 should be more principled, and that the approach favoured by Surrey and used in other
5 agreements results in an excessive Operating Fee in the context of this municipality (particularly
6 where Surrey does not currently receive Operating Fees).

7 In our discussions with Surrey we did consider other approaches to reflect actual cost and value
8 to the City taxpayers and Company customers. However, those discussions were “without
9 prejudice”, so detail cannot be provided. The FEI proposal was deemed to be the fairest
10 approach by the Company.

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14 3.11 Please describe how FEI's operating fee proposal would need to be revised were
15 it to be based entirely on principles of cost causation under existing regulatory
16 approvals and existing practices with respect to FEI's arrangements with Surrey.

17

18 **Response:**

19 Cost causation principles have informed FEI's proposal, and are one of the key reasons why
20 FEI believes that the City's proposed Operating Fee is too high.

21 First, tying the collection of the fee to the Delivery Margin, rather than gross revenues, links the
22 Operating Fee to the physical system and operations in Surrey. Gross revenues, by contrast,
23 are significantly affected by commodity costs. The amount and value of the commodity flowing
24 through the pipes has little to do with the costs of operation or Surrey's costs of managing its
25 relationship with FEI.

26 Second, the calculation of 0.7 percent as the amount of the fee is based on a proxy for costs
27 and activities that are relevant in the context of Surrey. The build up of the calculation is set out
28 in FEI's Application, and references FEI's and Surrey's respective costs.

29

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1 **5.0 Reference: Exhibit B1-1, page 19, Operating Fee**

2 The referenced page states:

3 *The implementation of an Operating Fee in Surrey based on 3 percent of gross*
4 *revenues would result in a 3.09 percent bill increase for all of FEI's customers within the*
5 *Municipality. Calculating the Operating Fee based on 3.09% of total revenues for 2016*
6 *results in a fee of \$3.8 million paid to the City, which is in excess of any reasonable*
7 *amount that should be paid for the services provided.*

8 5.1 Please provide the percentage of 2016 Surrey Gross Revenues comprised by
9 Operating Fees.

10

11 **Response:**

12 In 2016 FEI's customers in the municipality of Surrey did not pay Operating Fees.

13 Please refer to the response to BCUC IR 1.5.3, column 6 for an estimate of the Operating Fees
14 FEI would have collected from FEI's Surrey Customers, and remitted to the City of Surrey, if
15 FEI's proposal had been in place for 2016.

16

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19 5.2 If available, please provide comparable 2016 percentages for the municipalities
20 currently receiving an Operating Fee of 3% of Gross Revenues.

21

22 **Response:**

23 Please refer to the response to BCUC IR 1.4.2 for list of comparable percentages.

24

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1 **6.0 Reference: Exhibit B1-1, page 20, Responsibility for Upgrade/Betterment Costs**

2 The referenced page states:

3 *FEI's position is that relocation costs paid by the party requesting relocation should*
4 *exclude the value or incremental costs of any upgrading and/or betterment of the party's*
5 *facilities or the facilities of third parties "beyond that which is required to comply with*
6 *applicable Laws or sound engineering practices". FEI submits that the inclusion of the*
7 *quoted caveat is fair, reasonable and reflects cost causation.*

8 6.1 Is there a possibility under FEI's proposal that – even if its proposal and
9 language were approved as proposed by FEI – that subsequent disputes as to
10 the quanta of costs 'required to comply with law or sound engineering practices'
11 might require litigation to resolve, the costs of which (i.e., FEI, Surrey, regulatory,
12 legal, adjudicative, etc.) would fully offset FEI's estimated avoided litigation
13 expenses under its proposal? Please discuss.

14

15 **Response:**

16 There is always a possibility that a dispute could arise, but FEI believes the proposed processes
17 will help to reduce the issues and resolve issues when they arise.

18 Costs are managed, for instance, through the framework incorporated into the relocation
19 provisions of the Proposed Operating Agreement. That framework expands the provisions from
20 those contained in the Standard Operating Agreement to include a detailed scope identification
21 and cost determination and management process.

22 While there will be additional time and resources expended by FEI to provide: (i) the detailed
23 drawings required in the approval provisions of the Proposed Operating Agreement; and (ii) the
24 detailed estimates as required in the relocation provisions of the Proposed Operating
25 Agreement (neither of which is contained in the Standard Operating Agreement), it is anticipated
26 the early identification of the scope of work and materials and the estimate of costs should, over
27 time, reduce the number and scope of disputes, which, when coupled with the assumed benefits
28 of the detailed requirements for the approval process, should limit FEI's potential expenses
29 associated with resolving disputes.

30 The Proposed Operating Agreement also put in place a dispute resolution framework that is
31 conducive to the efficient resolution of issues that arise. Section 8.4(f) of the Proposed
32 Operating Agreement (refer to FEI's Application, Appendix A) states the dispute of an invoiced
33 amount may be referred to dispute resolution as provided in Section 17 of the Proposed
34 Operating Agreement. Please refer to the response to BCUC IR 1.6.4 for further details.

35

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1 **7.0 Reference: Exhibit B1-1, page 22, Release of Statutory Rights of Way**

2 The referenced page states:

3 *FEI is prepared to consider requests on a case by case basis, but is not prepared to*
4 *provide a blanket waiver of its rights. In instances where FEI agrees to release its*
5 *statutory right of way interest without requiring the Municipality to exercise its rights of*
6 *expropriation, it will effect that process in a timely manner and without expectation of*
7 *compensation from the City.*

8 7.1 Has FEI ever been asked to provide a blanket waiver of its RoW rights? If so,
9 please describe.

10

11 **Response:**

12 FEI has never been asked by another municipality to provide a blanket waiver of its SROW
13 rights. A blanket waiver of FEI's SROW rights would not be in the best interests of our
14 customers who rely on the natural gas distribution system, since such a waiver would not
15 enable FEI to assess the impact of the release of rights.

16 There are a number of considerations that should inform each request to release all or any
17 portion of FEI's SROW rights, such as the relative size of the affected SROW area, continued
18 access, operational and maintenance requirements, safety, future expansion, and code
19 compliance.

20

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23 7.2 Is FEI aware of any utilities operating in BC providing a blanket waiver of such
24 rights?

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26 **Response:**

27 FEI is not aware of any other utilities operating in BC providing a blanket waiver of such rights.

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1 **8.0 Reference: Exhibit B1-1, pp 23-24, Benefits to FEI's Customers in Surrey**

2 8.1 Please confirm that under FEI's the proposal, other things equal, will increase
3 rates to Surrey customers as compared to the status quo. If unable to so
4 confirm, please explain fully.

5
6 **Response:**

7 Under FEI's proposal, if approved by the Commission, customers in Surrey will see an
8 additional line item added to their bill. FEI will be forwarding the funds collected to the City.
9 Please refer to the response to BCUC IR 1.5.2 which provides the bill impact of FEI's proposal.

10 While Surrey customers will see an increase to their bills, FEI has proposed the 0.7 percent
11 Operating Fee on Delivery Margin as a way to recognize there are administrative steps the City
12 must take as a result of FEI operating within the City and that FEI is avoiding costs and potential
13 disputes. On the latter point, we expect that, in the absence of an agreement, Surrey would
14 seek to levy permit fees and charges and the dispute on that point would remain unresolved.

15 While FEI believes that an Operating Fee at the level FEI has proposed makes sense for
16 customers, the City of Surrey's proposal would increase rates by an amount that cannot be
17 justified on a principled basis.

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21 8.2 Does FEI have any evidence that would indicate that Surrey ratepayers will
22 receive an overall net benefit under the proposal as opposed to the status quo?

23
24 **Response:**

25 In Section 2.3.1 of FEI's Application, FEI describes its objectives for entering into discussions
26 with Surrey. FEI believes the Proposed Operating Agreement will improve FEI's ability to
27 operate within the municipality and improve its relationship with Surrey, while providing cost
28 predictability, administrative efficiencies, improved scheduling, and reduced time to serve
29 customers. Most of these benefits (those that translate into cost savings) apply to all FEI
30 customers, including FEI customers in Surrey. Some of the service-related benefits
31 (scheduling/reduced time to serve) relate specifically to FEI's customers in Surrey. Please refer
32 to Section 4.1 of FEI's Application for more details on the benefits of the Proposed Operating
33 Agreement for Surrey customers.

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1
2 8.3 Does FEI have any evidence that would indicate that Surrey ratepayers are
3 willing to pay what will be required under FEI's proposal?
4

5 **Response:**

6 In the response to BCUC IR 1.5.2, FEI discusses the bill impacts to customers of both FEI's
7 proposal, and that of the City of Surrey. FEI has no evidence to indicate that Surrey ratepayers
8 are willing to pay what will be required under FEI's proposal; however, absent an Operating Fee
9 based on FEI's proposal, we expect that overall costs will go up for all customers as a result of
10 increasing costs of work in Surrey. FEI is sensitive that any rate increases are not desirable for
11 customers. FEI's interests are aligned with customers in that fees added to customer bills
12 represent a competitive challenge. FEI believes its proposal reasonably balances the needs of
13 Surrey while keeping the direct impact to Surrey customers as low as possible.

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17 8.4 Please describe the methodology proposed to allocate the rate increases
18 attendant with FEI's proposal among rate classes.
19

20 **Response:**

21 There are no general rate increases with FEI's proposal. The proposal includes a separate
22 charge for FEI's customers located in the municipality of Surrey and the amounts collected will
23 be remitted to the City of Surrey as described in Section 3.3.2 of the Application. FEI's proposal
24 is for a charge as a percentage of Delivery Margin revenue on a customer's bill, regardless of
25 the customer's rate schedule. Please also refer to the response to BCUC IR 1.3.1.

26